

REMARKS

Applicants respectfully request reconsideration and further examination in view of the following remarks.

Claims 33-45, 52-55, and 69-110 are pending in this application. Claims 33, 38, 42, 43, 45, and 52 have been amended to recite that the soluble mutant flt3-L polypeptide "comprises a substitution at one or more residues corresponding to amino acid position 24 of the full length human wild type flt3-L polypeptide (SEQ ID NO:1) or amino acid positions 8-15, 81-87, and 116-124 of the mature human wild type flt3-L polypeptide (SEQ ID NO:18)." Support for this amendment can be found throughout the specification, including, for example, at pages 6-8 and in the originally filed claims. This new recitation parallels the language of claim 1 of U.S. Patent No. 6,291,661.

Claims 69-110 have been added. Claims 69-74 depend directly or indirectly from claim 33. Claims 75-80 depend directly or indirectly from claim 38. Claims 81-88 depend directly or indirectly from claim 42. Claims 89-96 depend directly or indirectly from claim 43. Claims 97-104 depend directly or indirectly from claim 45. Claims 105-110 depend directly or indirectly from claim 52.

Support for the new claims can be found in the specification, including the originally filed claims. Thus, no new matter is added. Method claims 69-110 parallel the language of the product claims in U.S. Patent No. 6,291,661, as set forth in the following chart.

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'661 patent claims	New claims depending from claim 33	New claims depending from claim 38	New claims depending from claim 42	New claims depending from claim 43	New claims depending from claim 45	New claims depending from claim 52
5	69	75	81	89	97	105
6	70	76	82	90	98	106
7	71	77	83	91	99	107
9	72	78	84	92	100	108
13	73	79	85	93	101	109
22			86	94	102	
23			87	95	103	
24	74	80	88	96	104	110

Formal Matters

The Office objected to the pending claims as containing non-elected subject matter. (Paper No. 8, page 2.) Applicants have amended claims 38, 42, 43, and 45 by deleting the non-elected subject matter directed to the administration of nucleic acids.

The Office further objected to the title of the invention as non-descriptive. Applicants have amended the specification to include the following descriptive title: Methods of Using Mutant Flt3-Ligand Polypeptides.

The Office also objected to the disclosure because the status of the related applications, referenced at page 1 of the specification, required updating. Applicants

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have amended the specification to update the status of parent application Serial No. 09/109,100, which has issued as U.S. Patent No. 6,291,661.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Office rejected claims 33-45 and 52-55 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as the invention. (Paper No. 8, pages 2-3.) The Office asserted that the claims are indefinite because “[m]utant is a relative term, and requires a ‘wild type’ sequence as a basis for determination that the mutant comprises a mutation.” (*Id.*) Applicants respectfully traverse this rejection.

As set forth in the specification, “[a] ‘mutant flt3-L polypeptide’ is a polypeptide having a sequence that has at least one difference in amino acid sequence relative to a wild type flt3-L polypeptide.” (Specification, page 6.) Thus, the term “mutant flt3-L polypeptide,” as described in this specification, implies a mutant sequence that differs relative to a wild type flt3-L polypeptide. Nevertheless, Applicants’ amendment to the claims makes the relationship between the mutant flt3-L polypeptide and wild type flt3-L polypeptide explicit. Thus, what was previously implicit in the claims is now explicit and obviates this rejection.

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Rejection Under 35 U.S.C. § 102

The Office rejected claims 33-45 and 52-55 under 35 U.S.C. § 102(e) as being anticipated by Lyman et al. (U.S. Patent No. 5,843,423). The Office also rejected claims 33-45 and 52-55 under 35 U.S.C. § 102(b) as being anticipated by Brasel et al. (WO97/12633). These rejections have been obviated by Applicants' amendments to the claims. Neither of the references teaches the mutant polypeptides recited in the pending claims. Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In view of the foregoing remarks, applicants respectfully request the examination on the merits of this application and the timely allowance of the pending claims.

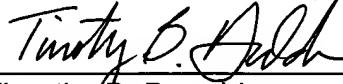
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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